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**January 31, 2000**

**VIA FACSIMILE & FIRST CLASS MAIL**

**Ami Antoine, Esquire (3RC43)  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103**

**RE: 68th Street Dump Site**

**Dear Ms. Antoine:**

This letter is in response to your January 28, 2000 correspondence. Before my client can make a decision regarding EPA's access, we must know the purpose of the site inspection and March sampling. Thus far, your letters have failed to indicate why further collection and sampling is necessary. Your previous letter referred to unspecified concerns raised regarding the proposed N.P.L. listing but it appears as if you have decided not to elaborate or share this information with us.

It appears that EPA is requesting access to obtain more data to support its proposed N.P.L. listing. If the record is insufficient to support the proposed listing from one year ago, withdrawal of the proposed listing would appear be the appropriate response. After the fact supplementation of the agency record after publication of its intent to list subverts the intent of the rule-making provisions of the Administrative Procedures Act.

Again, my client is not refusing your request by this letter. However, before we can make a decision, we need to know specifically why EPA and MDE want to re-visit the property and collect further sampling more than one year after the proposed N.P.L.

**AR000482**

Ami Antoine, Esquire  
U.S. Environmental Protection Agency  
January 31, 2000  
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listing. As soon as this information is provided my client will be in a position to respond to your access request and negotiate a satisfactory access agreement.

Yours very truly,



Warren K. Rich

WKR:mfg

cc: Kenneth R. Binnix

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**FACSIMILE TRANSMITTAL**

TO: Ami Antoine FAX: (215) 814-2601  
U.S. EPA

FROM: Warren K. Rich FAX: (410) 267-5901

DATE: January 31, 2000 3 pages (including this cover sheet)

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